



Reprinted
February 24, 2009

SENATE BILL No. 445

DIGEST OF SB 445 (Updated February 23, 2009 6:01 pm - DI 106)

Citations Affected: IC 35-45.

Synopsis: Intimidation. Provides that a person commits intimidation if the person threatens the spouse, child, parent, or sibling of another person. (Under current law, a person commits intimidation only if the person threatens another person, or the spouse or child of a witness.) Defines "threat" to include an intention to unlawfully disclose the immigration status of a person. Enhances intimidation to a Class D felony if the victim is: (1) an employee of a prosecuting attorney; (2) a public defender; or (3) an employee of a public defender or a public defender agency. Enhances intimidation to a Class C felony if the person threatens to commit a forcible felony against a witness in a criminal prosecution if the threat is intended to alter or prevent the witness's testimony, or to retaliate against the witness for serving as a witness. Enhances intimidation to a Class C felony if the person causes bodily injury to a witness in a criminal investigation, and to a Class B felony if the person causes serious bodily injury to a witness in a criminal investigation.

Effective: July 1, 2009.

Delph

January 14, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 19, 2009, amended, reported favorably — Do Pass.
February 23, 2009, read second time, amended, ordered engrossed.

SB 445—LS 7496/DI 107+



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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 445

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-45-2-1, AS AMENDED BY P.L.3-2006,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 1. (a) A person who communicates a threat to
4 another person, with the intent:

5 (1) that the other person **or the spouse, child, parent, or sibling**
6 **of another person** engage in conduct against the other person's
7 will;

8 (2) that the other person **or the spouse, child, parent, or sibling**
9 **of the other person** be placed in fear of retaliation for a prior
10 lawful act; or

11 (3) of causing:

12 (A) a dwelling, a building, or another structure; or

13 (B) a vehicle;

14 to be evacuated;

15 commits intimidation, a Class A misdemeanor.

16 (b) However, the offense is a:

17 (1) Class D felony if:

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- 1 (A) the threat is to commit a forcible felony;
 2 (B) the person **or the spouse, child, parent, or sibling of the**
 3 **other person** to whom the threat is communicated:
 4 (i) is a law enforcement officer;
 5 (ii) is a judge or bailiff of any court;
 6 (iii) is a witness ~~(or the spouse, or child, of a witness)~~ in any
 7 ~~pending~~ criminal proceeding ~~against the~~; ~~person making the~~
 8 ~~threat~~;
 9 (iv) is an employee of a school corporation;
 10 (v) is a community policing volunteer;
 11 (vi) is an employee of a court;
 12 (vii) is an employee of a probation department; ~~or~~
 13 (viii) is an employee of a community corrections program;
 14 **(ix) is an employee of a prosecuting attorney; or**
 15 **(x) is a public defender or an employee of a public**
 16 **defender or a public defender agency;**
 17 (C) the person has a prior unrelated conviction for an offense
 18 under this section concerning the same victim; or
 19 (D) the threat is communicated using property, including
 20 electronic equipment or systems, of a school corporation or
 21 other governmental entity; ~~and~~
 22 (2) Class C felony if:
 23 **(A) while committing it, the person draws or uses a deadly**
 24 **weapon;**
 25 **(B) a threat to commit a forcible felony is communicated**
 26 **to a witness in any criminal prosecution if the threat is to**
 27 **alter or prevent the witness's testimony, or to retaliate**
 28 **against the witness for serving as a witness; or**
 29 **(C) the person causes bodily injury to a witness in a**
 30 **criminal prosecution; and**
 31 **(3) Class B felony if the person causes serious bodily injury to**
 32 **a witness in a criminal prosecution.**
 33 (c) "Threat" means an expression, by words or action, of an
 34 intention to:
 35 (1) unlawfully injure the person threatened or another person, or
 36 damage property;
 37 (2) unlawfully subject a person to physical confinement or
 38 restraint;
 39 (3) commit a crime;
 40 (4) unlawfully withhold official action, or cause such withholding;
 41 (5) unlawfully withhold testimony or information with respect to
 42 another person's legal claim or defense, except for a reasonable

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1 claim for witness fees or expenses;
2 (6) expose the person threatened to hatred, contempt, disgrace, or
3 ridicule;
4 (7) falsely harm the credit or business reputation of the person
5 threatened; ~~or~~
6 (8) cause the evacuation of a dwelling, a building, another
7 structure, or a vehicle; ~~or~~
8 **(9) unlawfully disclose to another person the immigration**
9 **status of the person.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 445, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 5, after "person" insert **"or the spouse, child, parent, or sibling of another person"**.

Page 1, line 7, after "person" insert **"or the spouse, child, parent, or sibling of the other person"**.

Page 1, line 17, after "person" insert **"or the spouse, child, parent, or sibling of the other person"**.

Page 2, line 3, strike "(or the spouse,".

Page 2, line 3, strike "child,".

Page 2, line 3, delete "parent, or sibling".

Page 2, line 4, strike "of a witness)".

Page 2, line 4, strike "against the" and insert ";".

Page 2, strike line 5.

Page 2, line 11, delete "or".

Page 2, line 12, delete "a prosecuting attorney or".

Page 2, line 13, after "attorney;" insert: **"or**

(x) is a public defender or an employee of a public defender or a public defender agency;".

Page 2, line 15, reset in roman "or".

Page 2, line 18, delete "or".

Page 2, delete lines 19 through 20.

Page 2, line 23, delete "or".

Page 2, line 25, delete "person described in subdivision (1)(B)." and insert **"witness in any pending criminal prosecution if the threat is to alter or prevent the witness's testimony, or to retaliate against the witness for serving as a witness; or**

(C) the person causes bodily injury to a witness in a pending criminal prosecution; and

(3) Class B felony if the person causes serious bodily injury to a witness in a pending criminal prosecution."

Page 2, line 37, after "threatened" insert **"or the spouse, child, parent, or sibling of the person threatened."**

Page 2, line 40, after "threatened" delete ";" and insert **"or the spouse, child, parent, or sibling of the person threatened;"**.

Page 2, line 40, strike "or".

Page 2, line 42, after "vehicle" delete "." and insert "; **or**

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(9) unlawfully disclose to another person the immigration status of the person."

Delete page 3.

and when so amended that said bill do pass.

(Reference is to SB 445 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 445 be amended to read as follows:

Page 2, line 7, strike "pending".

Page 2, line 26, delete "pending".

Page 2, line 30, delete "pending".

Page 2, line 32, delete "pending".

Page 3, line 2, delete "or the spouse, child, parent, or".

Page 3, line 3, delete "sibling of the person threatened."

Page 3, line 6, after "threatened" insert ";".

Page 3, line 6, delete "or the spouse, child, parent, or sibling of the person".

Page 3, line 7, delete "threatened;"

(Reference is to SB 445 as printed February 20, 2009.)

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